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MELYNDA J. RADLOFF, Appellant)	
)	
and)	Docket No. 03-1635
)	Issued: November 21, 2003
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS ADMINISTRATION MEDICAL)	
CENTER, Danville, IL, Employer)	
)	

Case Submitted on the Record

Before:
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

On June 18, 2003 appellant filed a timely appeal from the April 30, 2003 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has *de novo* jurisdiction over the merits of this case.

The issue is whether the Office properly terminated appellant's compensation benefits for the accepted condition of contact dermatitis. On appeal, appellant argues that she still has trouble with her hands.

On December 15, 1989 appellant, then a 28-year-old temporary nursing assistant, filed a claim alleging that she began to experience problems with her hands in November 1989 as a result of wearing disposable examining gloves while performing her duties. The Office accepted her claim for the condition of contact dermatitis, both hands and paid compensation benefits on

the periodic rolls. Appellant was discharged from her federal employment on February 10, 1990 because she was restricted from wearing gloves, which her position required.

Appellant's attending physician, Dr. Harikrishna P. Patel, a Board-certified dermatologist, reported on January 14, 2002 that appellant had a history of hand dermatitis since 1989 while working at the employing establishment. The condition was thought to be work related, he noted, because it was in a glove distribution. Appellant continued to have similar problems, especially in the winter and when exposed to irritants "in spite of having discontinued working at the V.A. since 1989." The Office provided Dr. Patel with a statement of accepted facts and requested additional information on whether appellant remained disabled as a result of her work-related exposure.

On March 26, 2002 Dr. Patel reported as follows:

"In regards to the above patient, I have indicated in my notes that 'she has continued to have similar problems especially in the winter' and also she 'is exposed to irritants in spite of having discontinued working at the V.A. since 1989.' My diagnosis for the above patient is contact dermatitis which is being brought on by something she is coming in contact with and I have encouraged her to eliminate.

"The patient is able to work, but must be careful what she is coming in contact with since she does appear to have sensitive skin and is prone to this problem.

"The patient was treated for contact dermatitis by me, but did not keep her two week follow up appointment. I do not know whether her condition resolved with my treatment.

"If the patient had kept her follow up appointment, and her condition had resolved, she would have been advised to eliminate the cause of the irritation and continued general skin care for the dermatitis."

The Office referred appellant, together with copies of her medical records and a statement of accepted facts, to Dr. Barry I. Auster, a Board-certified dermatologist, for a second opinion evaluation.

On November 18, 2002 Dr. Auster related appellant's history: She had no family history of skin disease, no skin trouble as a child, no personal history of eczema and had never seen an allergist in the past. On physical examination Dr. Auster found thick, scaly, fissured,

reddish plaques on the hands bilaterally, worse on the right and most prominently on the palm of the right hand. Otherwise the examination was unremarkable. Dr. Auster reported as follows:

“It was my impression based on history, review of records and physical examination that [appellant] suffers from a form of hand eczema that is a variant of atopic dermatitis. This is not a specific allergy to one particular substance, rather generalized sensitivity of the skin. This is a genetic trait and the condition was unmasked due to the irritating conditions that she found in her employment at the Veterans Administration Hospital in October of 1989. It is my opinion that that form of employment did trigger the dermatitis. I believe she is still currently disabled from that type of employment, though noted she works in a similar form of employment at the present time [as an aide at an assisted living facility]. I did advise her to reduce bathing in winter, use mild soaps and she will need periodic follow up with a dermatologist, various therapies can keep the condition under control.

“In summary, [appellant] suffers from chronic hand eczema which is a variant of atopic dermatitis. This condition was unmasked at work situation at the Veterans Administration Hospital in 1989. I continue to recommend that she avoid this form of employment as this will disable her permanently from this type of employment.”

The Office requested clarification. The Office asked Dr. Auster to explain: (1) how appellant's current condition was still related to exposure at the VA hospital; (2) whether the work-related exposure [sic] had resolved and when; (3) to what did he attribute appellant's current condition; and (4) to what degree would her current condition improve were she to avoid irritants in her current employment.

In a supplemental report dated February 3, 2003, Dr. Auster responded as follows:

“Question number 1: How is her current condition still relate[d] to the exposure that the claimant experienced in her employment at the VA Hospital. The answer is: Based solely on the patient's history that she had no prior dermatitis to working at the Veterans Administration Hospital. It is possible she had an occult form of atopic dermatitis. It is known that people with the genetic predisposition to atopic dermatitis have this lesion unmasked when exposed to irritant working condition[s]. This relationship is solely based on the patient's history. The employment at the Veterans Administration Hospital in 1989 did not cause her dermatitis, but it unmasked an occult genetic predisposition.

“In answer to the second question, whether work-related exposure [sic] has resolved, it did resolve when she avoided irritants essentially. Atopic dermatitis will not completely clear and at any time it can be aggravated by mere environmental irritants such as temperature changes and household irritants. She does substantially improve when she avoids the irritants in her workplace.

“The third question: To what is the claimant’s current condition attributed to? The answer is: It is contributed to a combination of the underlying tendency towards atopic eczema and the irritant chemicals that she is exposed to in her current line of work.

“Finally, as to whether the claimant’s current condition would totally improve if she avoided irritants in her current employment, I believe if she changed her form of employment and did not work at all then her dermatitis would resolve to the 90 percent degree. She still would have some dermatitis based on the genetic tendency towards atopic dermatitis, but 90 percent of her problem would resolve.”

After proposing to terminate appellant’s compensation benefits and allowing her an opportunity to respond, the Office issued a decision on April 30, 2003 terminating her benefits for the accepted condition of contact dermatitis. The Office found that the evidence established that the work-related contact dermatitis had ceased and that appellant’s current condition was genetic and related to her employment in the private sector.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.²

ANALYSIS

The Office based the termination of appellant’s compensation benefits on the opinion obtained from Dr. Auster, the referral dermatologist.³ The Board finds, however, that Dr. Auster’s opinion is not adequately rationalized and is insufficient to establish that residuals of the accepted condition have resolved.

In his November 18, 2002 and February 3, 2003 reports, Dr. Auster supported a causal relationship between appellant’s federal employment in 1989 and the accepted dermatitis condition. He stated that it was possible,⁴ based only on her history that she had no prior

¹ *Harold S. McGough*, 36 ECAB 332 (1984).

² *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

³ The March 26, 2002 report of Dr. Patel, appellant’s attending dermatologist, did not address whether appellant remained disabled as a result of her work-related exposure.

⁴ Speculative medical opinions are of little probative or evidentiary value. *Philip J. Deroo*, 39 ECAB 1294 (1988) (although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee’s complaints “could have been” related to her work injury was speculative and of limited probative value).

dermatitis, that appellant had an occult form of atopic dermatitis and that her exposure to workplace irritants in 1989, while it did not “cause” her dermatitis, unmasked a genetic predisposition and triggered the condition. Dr. Auster thereby supported, with some speculation, that appellant’s federal employment aggravated an underlying genetic predisposition.

Dr. Auster did not make clear, however, whether this aggravation was temporary or permanent. The Office did not provide him with an explanation of temporary or permanent aggravation and did not ask him to address whether appellant’s exposure to irritants at the medical center in 1989 caused a temporary or permanent aggravation of her underlying tendency or predisposition. When Dr. Auster attributed appellant’s current condition to an underlying tendency towards atopic eczema and the irritant chemicals to which she was exposed in her current line of work, he indicated, by implication, that her current condition was no longer related to her exposure at the medical center in 1989. Also, he reported that appellant’s work-related “exposure” had resolved. Together, these statements can be read to support that appellant’s federal employment caused only a temporary aggravation and that she is no longer suffering the effects of her exposure in 1989.

At the same time, however, Dr. Auster appeared to support that appellant’s federal employment caused a permanent aggravation that not only continues to express itself but also continues to disable her from that type of employment. Based only on her history that she had no prior dermatitis, he affirmatively indicated that her current condition was still related to her exposure in 1989. He explained that appellant’s federal employment unmasked a genetic predisposition and triggered her condition. Further, once triggered, this was a condition that would not completely clear; even if she did not work and avoided irritants, she would still have some degree of dermatitis based on her genetic tendency. From these statements, Dr. Auster appeared to explain that appellant’s federal employment unveiled a condition that would never completely resolve and that would permanently disable her from the position she held in 1989.

Because he did not make clear whether appellant’s federal employment caused a temporary or permanent aggravation, the Board finds that Dr. Auster’s opinion is not well rationalized and is insufficient to resolve whether appellant continues to suffer residuals of her federal exposure in 1989.⁵

CONCLUSION

The Office did not meet its burden of proof to justify the termination of appellant’s compensation benefits for the accepted condition of contact dermatitis.

⁵ See *Connie Johns*, 44 ECAB 560 (1993) (holding that a physician's opinion on causal relationship must be one of reasonable medical certainty, supported with affirmative evidence, explained by medical rationale and based on a complete and accurate medical and factual background). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (discussing the factors that bear on the probative value of medical opinions).

ORDER

IT IS HEREBY ORDERED THAT the April 30, 2003 decision of the Office of Workers' Compensation Programs is reversed.

Issued: November 21, 2003
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member